Intermec Technologies Corp. v. Palm, Inc. Doc. 221

United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SILICONIX INC.,

Plaintiff,

v.

ADVANCED ANALOGIC TECHNOLOGIES, INC.,

Defendant.
_____________________________________/

No. C 04-00344 SI

ORDER DENYING DEFENDANT'S REQUEST FOR A TEMPORARY STAY OF CLAIM CONSTRUCTION DISCOVERY

By letter brief,[1] defendant seeks a protective order temporarily staying claim construction discovery until after this Court rules on defendant's motion to stay proceedings pending reexamination of patents-in-suit. Defendant's motion to stay is currently set for hearing on November 5, 2004. Plaintiff opposes defendant's request.

This Court will not at this time anticipate or resolve the arguments which will be made in connection with defendant's motion to stay pending re-examination. It appears that the only matters which will come due between now and November 5, 2004 are defendant's Preliminary Claim Constructions and Extrinsic Evidence under Patent Local Rule 4-2, which was due September 20, 2004 and is thus already over-due, and the parties' Joint Claim Construction and Prehearing Statement under Patent Local Rule 4-3, due October 15, 2004.[2] As to these preliminary documents, the Court finds that there is no good cause to defer filing them.

[1]Defendant's letter brief was filed on September 15, 2004; plaintiff's letter brief was filed on September 22, 2004.

[2]Plaintiff served its Preliminary Claim Constructions and Extrinsic Evidence pursuant to Patent L.R. 4-2 to defendant on September 20. That same day, defense counsel notified plaintiff's counsel that it would not provide its preliminary claim chart, given the pending motion to stay, Pl.'s Letter Brief, Ex. D, effectively ignoring the deadline. L.R. 6-1(b) requires a Court order for any "enlargement" of time. Although defendant

Dockets.Justia.com

United States District Court
For the Northern District of California

Plaintiff has already complied, and since only 3 of the 8 asserted claims are being re-examined, the bulk of the work done by the parties will be required in any event.

Accordingly, defendant's motion for protective order and/or to temporarily stay claim construction discovery pending ruling on motion to stay proceedings is DENIED.[3] Defendant must serve its Preliminary Claim Constructions and Extrinsic Evidence on plaintiff by **no later than October 15, 2004.** The parties' Joint Claim Construction and Prehearing Statement under Patent Local Rule 4-3 shall be **filed no later than October 29, 2004.**

Dated: October 12, 2004

S/Susan Illston
SUSAN ILLSTON
United States District Judge

---

did file a letter brief with this Court on September 15, 2004, no response from plaintiff was required until September 22, two days after the September 20 deadline for the Preliminary Claim Constructions and Extrinsic Evidence. Thus defendant chose, unilaterally, to ignore the requirements of the rule.

[3]Plaintiff's request for sanctions is also DENIED. The letter brief process is not inappropriate for seeking the kind of relief defendant requested. Defendant's timing was inappropriate, but the Court does not find sanctions to be appropriate at this time.